

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LOREN A. DEAN,

Plaintiff,

v.

INTERNAL REVENUE SERVICE,

Defendant.

Case No. C05-5352FDB

ORDER OF DISMISSAL


The United States¹ moves to dismiss this cause of action as being untimely both in terms of the Plaintiff's administrative claim for refund of \$69,581.43 for tax year 1996 that he filed with the Internal Revenue Service (IRS) and as to the timeliness of Plaintiff's filing this lawsuit. The IRS denied Plaintiff's administrative claim on May 28, 2003 explaining that, because it was filed on October 15, 2002, it was filed more than three years after the due date, including extensions, of Plaintiff's Form 1040x return for tax year 1996. The United States also contends that this lawsuit was untimely filed, three days after the expiration of the two-year statute of limitations, which runs from the date of mailing by the Secretary to the taxpayer by certified or registered mail a notice of the disallowance.

¹The real party in interest in a lawsuit against the IRS (Note 1, U.S. Mtn To Dismiss).

1 Plaintiff opposes the United States' motion asserting that he timely filed this lawsuit as the
2 date the statute of limitations ran, May 28, 2005, was a Saturday, the next Monday was a holiday,
3 Memorial Day, and this lawsuit was filed on the next business day that was not a holiday, May 31,
4 2005. Plaintiff, did not, however, demonstrate to the Court that he timely filed his administrative
5 claim.

6 ACCORDINGLY, IT IS ORDERED: The United States Motion To Dismiss [Dkt. # 10] is
7 GRANTED and this cause of action is DISMISSED.

8 DATED this 12th day of January, 2006.

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11 FRANKLIN D. BURGESS
12 UNITED STATES DISTRICT JUDGE
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